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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,158	11/13/2003	Keith Sinclair	50325-0811	2371
29989	7590	09/25/2008	EXAMINER	
HICKMAN PALERMO TRUONG & BECKER, LLP			STRANGE, AARON N	
2055 GATEWAY PLACE			ART UNIT	PAPER NUMBER
SUITE 550			2153	
SAN JOSE, CA 95110				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/714,158	<b>Applicant(s)</b> SINCLAIR ET AL.
	<b>Examiner</b> AARON STRANGE	<b>Art Unit</b> 2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 25 June 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-9,11-20,22-30 and 32-35 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-9,11-20,22-30 and 32-35 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)

Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. The Examiner would like to note that the present application has been reassigned to a new Examiner.
  
2. In the interest of expedited prosecution, the Examiner would like to recommend conducting an interview prior to filing a response to the present Office action. The Examiner feels that an interview would help foster a mutual understanding of the respective positions of Applicant and the Examiner, and assist in the identification of allowable subject matter and/or issues for appeal. If Applicant agrees that an interview would be beneficial, he/she is encouraged to contact the Examiner to schedule one.

***Response to Arguments***

3. Applicant has provided evidence in this file showing that the invention was owned by, or subject to an obligation of assignment to, the same entity as Baekelmans et al. (US 7,080,141) at the time this invention was made, or was subject to a joint research agreement at the time this invention was made. Therefore, the rejections relying on Baekelmans have been withdrawn. However, a new grounds of rejection has been set forth below.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3-9, 11-15, 17-20, 22, 24-30 and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feridun et al. (US 6,336,139) in view of Muthiyan et al. (US 7,328,260).

6. With regard to claim 1, Feridun discloses a method for rule-based network management, the method comprising the computer-implemented steps of:  
defining and storing a set of rules, wherein the set of rules includes:  
a symptom-event rule that identifies as a symptom a particular event occurring within a first network in a plurality of networks (events matching the registration list are sent to the correlation engine)(col. 8, ll. 15-22); and  
a problem-diagnosis rule that defines a problem within the network as a correlation between one or more symptoms (correlation engine contains correlation rules that identifies situations based on symptomatic events) (col. 9, ll. 1-14);  
collecting and storing symptom-related data about one or more symptoms (events are collected in the input queue)(col. 8, ll. 15-17), wherein collecting and storing the symptom-related data includes monitoring the network for one or more network events identified in the symptom-event rule (events are compared to the registration list and matching events are forwarded to the correlation engine)(col. 8, ll. 15-22); and

detecting a problem within the network, wherein detecting the problem includes applying the problem-diagnosis rule to the symptom-related data (correlated events may be used to detect situations, including problems)(col. 9, ll. 5-14 and 41-47);

receiving a request from a user to employ a particular rule in managing a second network, separate from the first network (system is used to manage a large distributed environment comprising a plurality of networks, each with its own management server)(col. 4, ll. 10-24); and

distributing, to a device on the second network, the particular rule (managing the second network will necessarily require distributing the rules to nodes on the second network).

Feridun fails to specifically disclose that the rules are stored in one or more Rule-Based Markup Language documents including tags for defining the rule elements.

Muthiyan discloses a similar system for monitoring a network based on a plurality of rules (Abstract). Muthiyan teaches storing the rules in Rule-Based Markup Language (XML) file including tags for defining the rule elements (col. 48, ll. 23-67). This would have been an advantageous addition to the system disclosed by Feridun since it would have allowed the rules to be edited using a standard text editor (Muthiyan; col. 12, ll. 15-19), eliminating the need for specialized editors to change or view the current rules.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to store the Feridun's rules in a Rule-Based Markup Language file to permit the rules to be easily viewed and edited using standard text editors.

7. With regard to claim 3, Feridun further teaches and/or suggests storing the rules in a rule repository, wherein the rule repository includes one or more directories containing the rule documents (rules are stored in the registration list containing a directory of rules indicating interest in a particular event; Rules are also stored in the event correlator)(col. 8, ll. 15-22; col. 9, ll. 1-14).

8. With regard to claim 4, Feridun, when considered in combination with Muthiyan's teaching of XML rule files, further teaches and/or suggests:

a problem-definition tag describing a problem (identification of the "situation")  
(col. 9, ll. 9-11); and

a correlation tag identifying the correlation between one or more symptoms, wherein the one or more symptoms are defined in one or more symptom tags that include one or more pre-defined indicators associated with the one or more symptoms (correlation rules identify a problem [situation] based on a series of symptomatic events occurring)(col. 9, ll. 41-47).

9. With regard to claim 5, Feridun further teaches and/or suggests that the step of detecting a problem within the network further comprises the steps of:

comparing the symptom-related data to the one or more pre-defined indicators associated with a particular symptom to determine whether the particular symptom

exists in the symptom-related data (a first rule is applied to an event stream)(col. 9, ll. 42-45);

repeating the step of comparing the symptom-related data for all symptoms identified in the correlation tag of the RBML document storing the problem-diagnosis rule (a second rule is applied to a second event stream)(col. 9, ll. 45-46); and

only if all symptoms identified in the correlation tag exist, determining that the problem identified in the problem-definition tag is detected (if both rules are satisfied, the situation defined by the correlation rule has occurred, and appropriate action is taken)(col. 9, ll. 52-57).

10. With regard to claim 6, Feridun, when considered in combination with Muthiyan's teaching of XML rule files, further teaches and/or suggests:

an event tag identifying the particular event occurring on the network (incoming events are identified and sent to the input queue)(col. 8, ll. 15-22); and

a symptom tag identifying a symptom as a generalized abstraction of the particular event (particular events are sent to the correlation engine if they match an entry in the registration list)(col. 8, ll. 19-22).

11. With regard to claim 7, Feridun, when considered in combination with Muthiyan's teaching of XML rule files, further teaches and/or suggests:

a profile tag identifying a particular network device; and

a command tag identifying a data-collection command, wherein the data collection command, when executed on the particular network device, returns symptom related data associated with the particular network device (distributed monitors may execution data collection commands in response to status requests)(col. 7, ll. 50-56).

12. With regard to claim 8, Feridun further teaches and/or suggests that the set of rules further includes a problem-correction rule defining one or more corrective actions capable of correcting the problem within the network; and the method further comprises the step of recommending to a user one or more corrective actions defined in a RBML document storing the problem-correction rule (actions are triggered in response to identification of a problem)(col. 9, ll. 41-57).
13. With regard to claim 9, Feridun further teaches and/or suggests applying to a network device, without user intervention, one or more corrective actions defined in the problem-correction rule (i.e., issuing an event to a network node or starting a new software agent)(col. 9, ll. 54-57).
14. Claims 11-15, 17-20, 22, 24-30 and 32-35 are rejected under the same rationale as claims 1 and 3-9, since they recite substantially identical subject matter. Any differences between the claims do not result in patentably distinct claims and all of the limitations are taught by the above cited art.

15. Claims 2, 16 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feridun et al. (US 6,336,139) in view of Muthiyan et al. (US 7,328,260) further in view of Official Notice.

16. With regard to claim 2, while the system disclosed by Feridun and Muthiyan shows substantial features of the claimed invention (discussed above), it fails to disclose reviewing the set of rules to identify and resolve a conflict between two or more rules in the set.

The Examiner takes Official Notice that reviewing rule sets to identify and resolve conflicts is old and well known in the art. The advantages of doing so, such as ensuring that the rules behave in the expected manner by eliminating conflicting actions, would have been apparent to one of ordinary skill in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to review the rules to identify and resolve any conflicts between rules.

17. Claims 16 and 23 are rejected under the same rationale as claim 2, since they recite substantially identical subject matter. Any differences between the claims do not result in patentably distinct claims and all of the limitations are taught by the above cited art.

***Conclusion***

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON STRANGE whose telephone number is (571)272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aaron Strange/  
Examiner, Art Unit 2153